

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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3 IN RE:

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) CA No. 01-12257-PBS

4 PHARMACEUTICAL INDUSTRY AVERAGE)
WHOLESALE PRICE LITIGATION

) CA No. 06-11337-PBS

) Pages 1 - 85

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DAUBERT HEARING - DAY TWO

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BEFORE THE HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

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United States District Court
1 Courthouse Way, Courtroom 19
Boston, Massachusetts
December 11, 2009, 2:05 p.m.

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LEE A. MARZILLI
OFFICIAL COURT REPORTER

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United States District Court
1 Courthouse Way, Room 7200

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25 THE COURT: So let's think about this. One thing that

1 can't happen is new data coming up at the last minute, new
2 charts, new data. So you now have everything -- do you have
3 any new studies or anything that your experts have done? Is
4 that what I'm hearing they're concerned about?

5 MR. DALY: No, we have no studies. We just had some
6 demonstratives.

7 THE COURT: All right, so have your experts done new
8 data analyses that they're going to be testifying --

9 MR. DALY: Your Honor, I will tell you that we have
10 been working a little bit on this very new stuff that we just
11 got last week, and we may have some stuff, and what your Honor
12 is going to say is that when we have it, we should give it to
13 the other side.

14 THE COURT: Immediately, because I won't allow it in.
15 And this new chart is a problem because for both sides, you
16 can't do that. I won't even allow examination next time. I
17 happened to find the gray-red chart very helpful, but this one
18 you can't go through that fast. You'd have to correlate the
19 data.

20 MR. DALY: Our experts will be able to do that, Judge.

21 THE COURT: But no new ones. Don't do it again, okay?